

ENTERED

January 30, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MELVIN ERSKIN,
(SPN #02332395)

Plaintiff,

vs.

OFFICER HERNANDEZ, et al.,
Defendants.

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CIVIL ACTION H-18-3561

MEMORANDUM ON DISMISSAL

The plaintiff filed this complaint under 42 U.S.C. § 1983 on October 2, 2018. In a supplemental pleading, the plaintiff stated that he wished to file this lawsuit in state court at the following address, 201 Caroline. (Docket Entry No. 1-2, p. 1). He explained that in a previous suit, he bypassed the state court system, and he did not want to repeat that mistake.

In an order entered on January 8, 2019, this Court instructed the plaintiff to submit a written response entitled "Compliance," by January 18, 2019. (Docket Entry No. 7). In the response, the plaintiff was ordered to clearly and unambiguously state whether he wished to continue litigating this lawsuit in this federal court. If the plaintiff did not wish to continue this litigation, the plaintiff was instructed to complete the attached voluntary dismissal form. This Court admonished the plaintiff that failure to comply as directed may result in the dismissal of this action for want of prosecution.

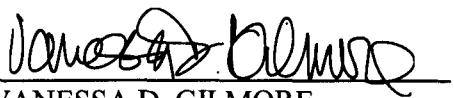
To date, the plaintiff has not responded to this Court's order entered on January 8, 2019.

(Docket Entry No. 7). The plaintiff's failure to comply with this Court's order forces this Court to conclude that he lacks due diligence.

Under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995); 8 James Wm. Moore et al., *Moore's Federal Practice* § 41.51(3)(b) & (e) (3d ed. 2017). Upon a proper showing, relief from this order may be granted in accordance with Fed. R. Civ. P. 60(b). *See Link*, 370 U.S. at 635.

This action is DISMISSED without prejudice for want of prosecution.

SIGNED at Houston, Texas, on January 30, 2019.


VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE